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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,970	10/14/2003	Kevin L. Parsons	90054	9957
24628	7590	05/15/2007	EXAMINER	
WELSH & KATZ, LTD 120 S RIVERSIDE PLAZA 22ND FLOOR CHICAGO, IL 60606			SANDY, ROBERT JOHN	
		ART UNIT	PAPER NUMBER	
		3677		
		MAIL DATE	DELIVERY MODE	
		05/15/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/684,970	PARSONS, KEVIN L.
	<b>Examiner</b>	<b>Art Unit</b>
	Robert J. Sandy	3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 03 April 2007.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-10, 12-16 and 18-22 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) 15, 16, 20 and 21 is/are allowed.
- 6) Claim(s) 1-10, 12-14, 18, 19 and 22 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date: _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date: _____   | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03 April 2007 has been entered.

This is a non-final Office action responsive to the reply filed on 03 April 2007.

- Claims 1, 8, 15, 20, and 22 have been amended
- Claims 11 and 17 have been canceled.
- Claims 1-10, 12-16, and 18-22 are pending.

### ***Information Disclosure Statement***

The information disclosure statement (IDS) submitted on 30 January 2004 was partially considered by the previous Examiner of record at the time of the prior Office action mailed on 14 December 2004. At the time of that mailing, the Examiner indicate as only having considered the seven U. S. Patent documents. Three "Other Documents" were not considered at that time.

Attached with the mailing of this Office action is a copy of the applicant's filed form PTO-1449 indicating the three "Other Documents" have been considered by the current Examiner of record. The portion listing the seven "U. S. Patent Documents" has been line-out since these documents have already been considered by the previous Examiner. The three "Other Documents" each have been initialed and considered.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 10 and 12-14, are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Each of claims 9, 10 and 12-14 are indefinite and of improper form since they are setting forth limitations of "closed" claim established by claim 8. Claim 8 established the claimed "end cap" as only requiring the limitations following the transitional phrase "consisting of". "A claim which depends from a claim which "consists of" the recited elements or steps cannot add an element or step." See M.P.E.P. 2111.03 [R-3]. Therefore, the scope of claims 9, 10 and 12-14 cannot be determined.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-10, 12-14, 18, 19, and 22, are rejected under 35 U.S.C. 102(b) as being anticipated by Sargent (U. S. Patent No. 1,084,969, of record).

Concerning claims 1-7, Sargent ('969) discloses an leverage end cap (capable for use on a baton having a generally cylindrical elongated handle portion defining the longitudinal axis of the baton and adapted to be grasped in a user's hand, the handle having a proximal end and an opposite distal end), the leverage end cap comprising: a unitary body defining a longitudinal axis and having an enlarged knob end (at 21 shown in Fig. 2); said body having an opposite integral longitudinally extending generally cylindrical end (at 22) of an external surface diameter capable of being substantially the same as the cylindrical handle portion of the baton and adapted for

releasably attaching (by means of lug 27) the cap to the baton at the proximal end of the baton in substantially axial alignment therewith, and

    said body further having a reduced diameter circumferential groove (at 21 shown in Fig. 1) of generally U-shaped concave profile intermediate and contiguous to both said knob and attaching ends and configured and sized to receive the little finger of the user's hand in generally snuggly wrapped relation, said knob having an outer diameter greater than the diameter of said cylindrical end of said body so as to engage the base of the user's hand adjacent the little finger during use and with at least the pointing finger of the user's hand wrapping about and gripping the handle portion of the baton to firmly grip the baton adjacent the proximal end of the baton, whereby during use the end cap creates a fulcrum point at the user's little finger, increases the effective moment arm of" the baton, and prevents axial release of the baton from the user's grip;

    (concerning claim 2) the knob is generally hemispheric in shape;

    (concerning claim 3) the generally hemispheric knob defines a generally flattened exposed end surface (i.e., generally flattened surfaces circumferentially the end of the circumferential ridge having a decreased diameter than that of the section 21 marked in Fig. 2);

    (concerning claim 4) a distal end of the knob defines the circumferential groove of concave profile (as shown in Fig. 1-3);

    (concerning claim 5) said opposite end of said body includes an internal thread (i.e., lug 27) for cooperative axial engagement with an externally threaded proximal end of the baton;

    (concerning claim 6) the generally cylindrical and knob ends of the cap are formed integral with the circumferential groove portion; and

    (concerning claim 7) the enlarged knob end defines a means (i.e., external surface of knob portion capable of holding a decorative element) for holding a decorative element.

Concerning claims 8-10 and 12-14, so far as definite), Sargent ('969) discloses a leverage end cap (21) capable for use on an expandable baton having an elongated generally cylindrical handle defining the longitudinal axis of the baton and adapted to receive at least one internal telescoping section extendable from a distal end of the handle, the end cap consisting of: a unitary body having an enlarged knob (21; Fig. 2) defining a proximal end of the end cap; said body having a cylindrical distal end (at end having 22) having a diameter substantially the same as the diameter of the elongated baton handle but of a smaller external diameter than said knob

and configured to releasably attach the end cap generally axially to the baton handle at a threaded proximal end of the baton handle, and said body having an annular groove at 21 shown in Fig. 1) of generally U-shaped concave profile and disposed between and contiguous to said knob and said cylindrical distal end, said groove having a minor transverse cross-sectional area substantially less than the cross-sectional area of said distal end of said body to receive the little finger of a user's hand in wrapped relation about said groove so that the little finger is captured between said knob and cylindrical distal end, said end cap having a longitudinal length such that at least the pointing finger of the user's gripping hand can grip a proximal end portion of the baton handle whereby the baton can be held firmly adjacent the proximal end of the baton handle with the leveraging end cap creating an increased leveraged moment arm fulcrum at the annular groove. Claims 9, 10, 12, 13, and 14, correspond to claims 3, 4, 5, 6 and 7, respectively, set forth above.

Concerning claims 18 and 19, Sargent ('969) discloses a leveraging end cap capable for use with an expandable baton having an elongated generally cylindrical tubular handle section defining the longitudinal axis of the baton and having a proximal end and an opposite distal end, the proximal end having a peripheral thread thereon adapted to receive the end cap in mounted relation thereon; said leveraging end cap including a unitary body (21) having a first end (end having 22) adapted for releasable threaded engagement with the peripheral thread (23, 4, 26) on the proximal end of the baton handle section so that the leveraging end cap is substantially axially aligned with the baton handle, said leveraging end cap having an enlarged knob second end (end having 21: Fig. 2) and defining a circumferential reduced diameter curvilinear surface (at 21 shown in Fig. 1) between and contiguous to said first and second ends of said leveraging end cap, said curvilinear surface being sized to establish a finger grip to receive only the small finger of a user's hand in wrapped relation thereon when the proximal end of the baton handle is grasp in the user's hand, said leveraging end cap being operative to create a greater effective impact force moment for the baton when grasp by the user's hand than obtained when the tubular handle is grasp generally midlength thereof; and (concerning claim 19) the knob end of the end cap is sized and capable to engage the lateral outermost surface of the user's little finger when wrapped about the circumference curvilinear surface so as to prevent axial slippage of the baton from the user's hand during use.

Concerning claim 22, Sargent ('969) discloses structure representative of a baton (20) in combination with a leverage end cap (21) structurally capable enabling an increase in leverage force obtainable during manipulation of the baton to impact an object, said baton having a generally cylindrical handle (21) defining a longitudinal axis and opposite proximal and distal ends with the proximal end enabling gripping in the palm of a user's hand, said leverage end cap having a unitary body (21) defining a longitudinal axis and having a first end (at 22) of a transverse cross section of substantially the same size as the transverse cross section of the proximal end (end having 23, 24) of the baton handle, said first end being releasably secured (via elements 23, 24, 27) to the proximal end of the baton in substantially axially aligned relation therewith, said leverage cap having an opposite second end (end having 21 as shown in Fig. 2) defined by an enlarged knob (portion 21 of Fig. 2) having a greater peripheral size than said first end, said cap having a circumferential groove (21 shown in Fig. 1) of generally U-shaped concave profile between and contiguous to said first end and said knob end and having a minor transverse cross sectional area substantially less than the cross-sectional area of said first end so that gripping the leverage end cap with one's hand such that the little finger of the hand is received within the circumferential groove and at least partially wraps the groove with the knob engaging the surface of the hand adjacent the little finger to prevent slippage of the hand in the direction of the knob and at least the first finger of the user's hand encircles the proximal end of the baton handle whereby to create an extended lever fulcrum at the little finger when manipulating the baton to impact an object.

#### *Response to Arguments*

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection, necessitated by applicant's amendment.

#### *Allowable Subject Matter*

Claims 15, 16, 20 and 21 are allowed.

The following is an examiner's statement of reasons for allowance:

Concerning independent claim 15, the prior art of record fails to teach or suggest the claimed method of increasing the leverage impact force obtainable with a baton having an

elongated hand-graspable generally cylindrical handle, by the steps of at least providing the claimed leverage end cap having the structural combination of a unitary body defining an enlarged proximal end knob, a generally hour-glass shaped annular groove contiguous to the end knob and having a minor diameter substantially smaller than the end knob, and a generally cylindrical distal end contiguous to the groove and having an external diameter substantially the same as the diameter of the baton handle and greater than the minor diameter of the groove, the distal end defining means for releasable attachment to the proximal end of the baton handle;

Concerning independent claim 20, the prior art of record fails to teach or suggest the claimed method for increasing the leverage force obtainable with an elongated baton by the steps of at least providing the claimed leverage end cap having a unitary body defining a longitudinal axis and having a first end of a transverse cross section of substantially similar size to the transverse cross section of the proximal end of the baton handle, the first end including means for releasably securing it to the proximal end of the baton in substantially axially aligned relation therewith, the leverage cap having an opposite second end defined by an enlarged knob having a greater peripheral size than the first end, the cap having a circumferential groove of generally U-shaped concave profile between and contiguous to the first end and the knob end and having a minor transverse cross-sectional area substantially less than the cross-sectional area of the first end.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Sandy whose telephone number is 571-272-7073. The examiner can normally be reached on M-F (7:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J.J. Swann can be reached on 571-272-7075. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



**ROBERT J. SANDY**  
**PRIMARY EXAMINER**

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